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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,308	09/09/2003	Charles J. Renz	460.2173USX	2142

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EXAMINER

TRUONG, KEVIN THAO

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/658,308	Applicant(s) RENZ, CHARLES J.	
	Examiner Kevin T. Truong	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/03/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34,37-54 and 57-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34,37-54 and 57-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/0/2005 has been entered.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 34, 37-54, and 57-64 are rejected under 35 U.S.C. 102(e) as being anticipated by Sheehy (U.S. 5,653,732).

As to claims 34, 37-40, 43, 45-48, 52, 54, 57, 58, and 60-63, Sheehy discloses in figured 3 and 4, a tapered stem (at 48); an areola region (38) connected to the proximal end (at 42) of said stem (at 48); and a bulbous region (36) being connected to said areola region (38), wherein said areola region (38) is substantially concentrically aligned with said bulbous region (36) when viewed in a top view and wherein said proximal end of said stem (48) has opposing sides with inwardly concave shapes when view in a front view; an annular edge (40)

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disposed between said areola region (38) and said bulbous region (36); and further comprising a flange (60); and wherein said areola region (38) and said proximal end (at 42) of said stem (at 48) are connected along an inwardly concave surface (at 46) and wherein said inwardly concave surface (at 46) is also considered to be smooth.

As to claims 41, 42, 44, 49, 51, 53, 59, and 64, wherein said areola and bulbous regions (18,16) and stem (at 17) as disclosed by Sheehy appears to have dimension as claimed, due to its being used on baby's mouth.

Response to Arguments

Applicant's arguments filed 11/03/2005 have been fully considered but they are not persuasive. With respect to claims 34 and 57, the Examiner disagrees with Applicant's remarks that figure 4 of Sheehy patent fails to teach wherein said areola region (38) and said proximal end (at 42) of said stem (at 48) are connected along an inwardly concave surface (at 46) and wherein said inwardly concave surface (at 46) is smooth. These are simply not convincing due to the broadest reasonable interpretation that even though a ridge or a raised strip as shown in figure 4 of Sheehy, these ridge or raised is clearly considered smooth area between the stem and areola region.

With respect to claim 45, Applicant argues that Sheehy's nipple has three distinct annular ridges, since claim 45 is claiming a nipple having only one edge annular ridge and NOT three annular ridges. Due to the transitional term "comprising" is an open-ended and does not exclude additional, unrestricted element. In other

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words, "Comprising" is a term that allows other elements may be added and still form a construct within the scope of the claim. The examiner has maintained the grounds of rejection under 35 U.S.C. 102 (b) as being anticipated by Sheehy for the reasons as set forth in the above and previous office action.

Conclusion

2. This is a RCE of applicant's earlier Application No. 10/658,308. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

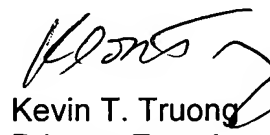
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin T. Truong whose telephone number is 571-272-

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4705. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on 571-272-4963. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and (571) 273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3700.



Kevin T. Truong
Primary Examiner
Art Unit 3731

ktt
November 28, 2005